



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Anu Natarajan, Vice Mayor
Bob Wieckowski
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JANUARY 27, 2009
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 *Second Reading and Adoption of an Ordinance of the City of Fremont Amending Fremont Municipal Code Title V (Businesses, Professions and Trades) by Adding a New Chapter Pertaining to the Regulation of Places of Entertainment*

RECOMMENDATION: Adopt ordinance.

- 2.4 *APPROVAL OF FINAL MAP, TRACT 7965, OLD SCHOOL CONDOMINIUMS II, LOCATED AT 33551 MISSION BOULEVARD BY MISSION SQUARE HISTORIC RENOVATION PARTNERS
Approval of Final Map for Tract 7965*

Contact Person:

<i>Name:</i>	<i>Craig Weady</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Sr. Engineering Specialist</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>

Phone: 510-494-4720

510-494-4748

E-Mail: cweady@fremont.gov

nhughes@fremont.gov

RECOMMENDATION: Adopt a resolution approving the final map for Tract 7965.

2.5 OSGOOD ROAD IMPROVEMENTS

Approval and Execution of a Cooperative Agreement with Alameda County Water District for the Installation of Storm Drainage Facilities in Lieu of Relocating the Water Main for the Osgood Road Improvements – Washington Boulevard to Grimmer Boulevard, City Project 8173 (PWC)

Contact Person:

Name: Jeanne Suyeishi

Norm Hughes

Title: Associate Civil Engineer

City Engineer

Dept.: Community Development

Community Development

Phone: 510-494-4728

510-474-4748

E-Mail: jsuyeishi@fremont.gov

nhughes@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to execute a cooperative agreement with Alameda County Water District for the installation of storm drain facilities in lieu of relocating the water main for the Osgood Road Improvement project between Washington Boulevard and Grimmer Boulevard, 8173(PWC) in the estimated amount of \$94,800.

2.6 RDA PROJECT CLOSE OUTS

Approve the Close Out of Completed Redevelopment Projects

Contact Person:

Name: Irene Klebanivska

Elisa Tierney

Title: RDA Business Manager

RDA Director

Dept.: Housing and Redevelopment

Housing and Redevelopment

Phone: 510-494-4510

510-494-4501

E-Mail: iklebanivska@fremont.gov

etierney@fremont.gov

RECOMMENDATION: Approve the close out of the redevelopment projects identified on Enclosure A and return the remaining project appropriations to their respective funds.

2.7 INITIATION OF GENERAL VACATION PROCEEDINGS TO ABANDON A PORTION OF CALIFORNIA STREET (PLN2009-00009)

Initiation of a Proceeding to Consider a General Vacation to Abandon a Portion of California Street Located Between Beacon Avenue and Walnut Avenue in the Central Planning Area

Contact Persons:

Name: Wayne Morris

Jeff Schwob

Title: Senior Planner

Planning Director

Dept.:	Community Development	Community Development
Phone:	510-494-4729	510-494-4527
E-Mail:	wmorris@fremont.gov	jschwob@fremont.gov

RECOMMENDATION: Adopt a motion initiating a general vacation proceeding pertaining to California Street and direct the Clerk to set and publicly notice a public hearing to be held on February 24, 2009.

2.8 AUTHORIZATION TO ISSUE A PURCHASE ORDER TO SHAW INDUSTRIES, INC. FOR FRC CARPETING

Authorization to Issue a Purchase Order to Shaw Industries, Inc. for Family Resource Center Carpet Replacement

Contact Person:

Name:	Leticia Leyva	Suzanne Shenfil
Title:	Management Analyst	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2072	510-574-2051
E-Mail:	lleyva@fremont.gov	sshensfil@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to issue a purchase order to Shaw Industries for carpet replacement at the FRC totaling \$160,000, using the CMAS contract No. 4-08-72-0008B.

2.9 CONTRACT WITH ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY TO SUPPORT THE FREMONT FAMILY RESOURCE CENTER

Authorization for the City Manager to Execute a FY 2008/09 Renewal Agreement with Alameda County Health Care Services Agency to Support the Fremont Family Resource Center

Contact Person:

Name:	Judy Schwartz	Suzanne Shenfil
Title:	FRC Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2007	510-574-2051
E-Mail:	jschwartz@fremont.gov	sshensfil@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to enter into an agreement with the Alameda County Health Care Services Agency in the amount of \$100,000 for the Fremont Family Resource Center.

2.10 CONSTRUCTION OF NILES TOWN PLAZA PASSENGER DEPOT BUILDING MOVE AND RENOVATION

Approve the Request from the Apparent Low-Bidder to Withdraw Their Bid, Waive Minor Bid Irregularities, Approve Plans and Specifications, and Award Contract for the Move and Renovation of Niles Passenger Depot Building (City Project No. PWC8614D)

Contact Person:

<i>Name:</i>	<i>Michael Ma</i>	<i>Robert Kalkbrenner</i>
<i>Title:</i>	<i>Project Manager</i>	<i>Civic Facilities Development Manager</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4750</i>	<i>510-494-4428</i>
<i>E-Mail:</i>	<i>mma@fremont.gov</i>	<i>rkalkbrenner@fremont.gov</i>

RECOMMENDATIONS:

- 1. Consent to the apparent low-bidder's, Grand California Construction, request to withdraw its bid for Niles Town Plaza Passenger Depot Building construction contract.*
- 2. Approve Plans and Specifications for the move and renovation of the Niles Town Plaza Passenger Depot Building (City Project No. PWC 8614D).*
- 3. Waive the minor irregularity in the bid and award the contract for the construction of Niles Town Plaza Passenger Depot building move and renovation City Project No. PWC8614D to River View Construction in the amount of \$778,788.00 and authorize the City Manager, or his designee, to execute the contract.*

2.11 HOUSEHOLD HAZARDOUS WASTE DROP-OFF FUNDING

Appropriate \$355,000 of Integrated Waste Management Unallocated Fund Balance to Fully Fund Household Hazardous Waste Drop-Off Operations through June 2009

Contact Person:

<i>Name:</i>	<i>Ken Pianin</i>	<i>Kathy Cote</i>
<i>Title:</i>	<i>Solid Waste Administrator</i>	<i>Environmental Services Division Manager</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-494-4582</i>	<i>510-494-4583</i>
<i>E-Mail:</i>	<i>kpianin@fremont.gov</i>	<i>kcote@fremont.gov</i>

RECOMMENDATION: Appropriate \$355,000 of the Integrated Waste Management Unallocated Fund balance (fund 115) for FY 2008/09 Household Hazardous Waste drop-off operations.

2.12 AUTHORIZATION TO ISSUE A PURCHASE ORDER TO INSIDE SOURCE FOR FIRE AND POLICE BUILDING FURNITURE

Authorization to Issue a Purchase Order to Inside Source for the Purchase of Furniture to Outfit the Fire Department Administration/Training Center; Fire Station 11; Fire Tactical Training Center; and Police Department Indoor Gun Range

Contact Person:

<i>Name:</i>	<i>Kelly Sessions</i>	<i>Bruce Martin</i>
<i>Title:</i>	<i>Business Manager</i>	<i>Fire Chief</i>
<i>Dept.:</i>	<i>Fire</i>	<i>Fire</i>
<i>Phone:</i>	<i>510-494-4281</i>	<i>510-494-4202</i>

E-Mail: ksessions@fremont.gov

bmartin@fremont.gov

RECOMMENDATION: Authorize the City Manager or designee to issue a purchase order to Inside Source for the purchase of furniture totaling \$444,587 using the Cabrillo Community College Contract, Bid No. 2007-03.

3. CEREMONIAL ITEMS

- 3.1 Resolution: Recognizing Police Sergeant Tony Duckworth for 20 Years of Service
- 3.2 Resolution: Recognizing Police Lieutenant John Liu for 20 Years of Service

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

- 6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

- 7.1 LEGISLATIVE POLICIES AND FUNDING PRIORITIES
Adoption of City Legislative Policies and Funding Priorities for 2009

Contact Person:

Name:	Aretha Harvey	Melissa Stevenson Dile
Title:	Management Fellow	Deputy City Manager
Dept.:	City Manager's Office	City Manager's Office
Phone:	510-284-4012	510-284-4005
E-Mail:	aharvey@fremont.gov	mdile@fremont.gov

RECOMMENDATION: Adopt the 2009 Legislative Policies and Funding Priorities and authorize the Mayor to convey the Legislative Policies and Funding Priorities to Assemblymember Torrico and Senator Corbett.

7.2 CIP PROCESS UPDATE AND PWC CLOSE OUTS

Presentation of CIP Progress, Capital Revenue Projections and Initial Project Prioritization, and Approve the Close Out of Completed Capital Projects

Contact Person:

Name:	Sean O'Shea	Norm Hughes
Title:	Management Analyst II	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4777	510-494-4748
E-Mail:	soshea@fremont.gov	nhughes@fremont.gov

RECOMMENDATIONS:

1. Provide comment on staff prioritization lists.
2. Approve the close out of the capital projects identified on Enclosure C and, for all funds except funds 131, 142 and 531, return the remaining project appropriations to their respective funds. For Gas Tax funds 131, 142 and TIF fund 531, appropriate the remaining balance to PWC 8101 "CIP Contingency."
3. Approve the transfer of the remaining funds in 508PWC8603 to 508PWC8147.
4. Approve the transfer of the remaining funds in 531PWC8378 to 531PWC8661, and then close PWC8378
5. Defund approximately \$780,000 from PWC 8078 to Fund 951 and return the money to unallocated fund balance.
6. Defund \$600,000 from PWC 8236 to Fund 531 and return the money to unallocated fund balance.

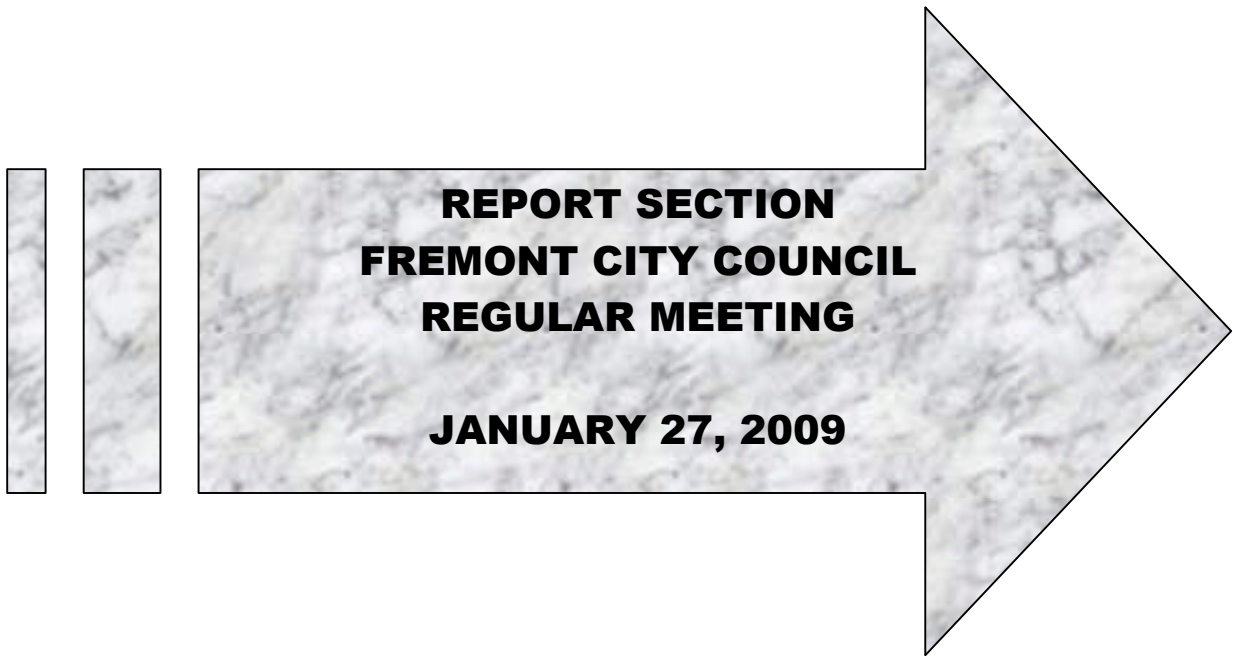
8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointments to Outside Commissions, Committees and Boards

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



***2.3 Second Reading and Adoption of an Ordinance of the City of Fremont Amending Fremont Municipal Code Title V (Businesses, Professions and Trades) by Adding a New Chapter Pertaining to the Regulation of Places of Entertainment**

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

***2.4 APPROVAL OF FINAL MAP, TRACT 7965, OLD SCHOOL CONDOMINIUMS II, LOCATED AT 33551 MISSION BOULEVARD BY MISSION SQUARE HISTORIC RENOVATION PARTNERS**

Approval of Final Map for Tract 7965

Contact Person:

Name:	Craig Weady	Norm Hughes
Title:	Sr. Engineering Specialist	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4720	510-494-4748
E-Mail:	cweady@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that the City Council approve the Final Map of Tract 7965.

BACKGROUND AND DISCUSSION: Tract 7965 is located on the west side of Mission Boulevard between Anza Street and Cedar Street in the Mission San Jose Planning Area. The project is a four lot subdivision of the 1.723 acre “Old School Mixed-use Development”. One lot is for condominium purposes for the conversion of the 11 live/work units in the “Old School” building. Lots 2 and 3 are for the existing commercial/ retail buildings that front onto Mission Boulevard. Lot 4 is a common area lot to be shared by the subdivision for access and parking. Conditional Use Permit (PLN2006-00233) was approved by the Planning Commission on November 8, 2007 for the conversion of 11 live/work units in the Old School building to a condominium form of ownership. Vesting Tentative Tract Map 7965 was approved by the Planning Commission on May 22, 2008 for the overall subdivision. The project is generally in conformance with the conditional use permit and the vesting tentative map for Tract 7965. The developer has properly notified existing tenants of the live/work units of the condominium conversion and is providing relocation information as required by the Subdivision Map Act and the City’s condominium conversion ordinance. The developer has created Covenants, Conditions, and Restrictions (CC&Rs) for Tract 7965 which contain all of the required provisions for use and maintenance of the common areas in accordance with the conditions of approval.

All public and private street improvements have been installed with a previous subdivision. No additional improvements are required with this subdivision. All required public easements were dedicated with a previous subdivision, therefore no additional easements or right of way are required.

This minor subdivision and conversion of existing dwelling units to a condominium form of ownership is categorically exempt per section 15301 (k) of the Environmental Quality Act. The Final Map is consistent with the original project description, scope of work. No further environmental review is required.

The final map has been reviewed and is now ready for City Council approval.

ENGINEER: Civil Engineering Associates (CEA)

DEVELOPER: Mission Square Historic Renovation Partners, Santa Clara Development Company – General Partner

ENCLOSURES:

- Draft Resolution
- Site Plan

RECOMMENDATION: Adopt a resolution approving the final map for Tract 7965.

***2.5 OSGOOD ROAD IMPROVEMENTS**

Approval and Execution of a Cooperative Agreement with Alameda County Water District for the Installation of Storm Drainage Facilities in Lieu of Relocating the Water Main for the Osgood Road Improvements – Washington Boulevard to Grimmer Boulevard, City Project 8173 (PWC)

Contact Person:

Name:	Jeanne Suyeishi	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4728	510-474-4748
E-Mail:	jsuyeishi@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to request that the City Council approve, and authorize the City Manager to execute, a Cooperative Agreement with Alameda County Water District (ACWD) pursuant to which ACWD will pay the City to install several storm drain facilities in lieu of relocating the water main for the Osgood Road Improvement project between Washington Boulevard and Grimmer Boulevard, City Project No. 8173 (PWC).

BACKGROUND: The Osgood Road Improvement Project was approved by City Council in 1993 and was first funded in 1996. On May 12, 1998, staff presented a program to City Council to improve the Osgood Road corridor from Washington Boulevard to Auto Mall Parkway. Staff also included this project in the Metropolitan Transportation Commission's (MTC's) 1999 Transportation Improvement Program (TIP) to pursue federal funds to offset additional costs. The project was programmed to receive \$1,525,000 of Transportation Equity Act of the 21st Century (TEA-21) Demonstration funds in 2000. This required a National Environmental Policy Act (NEPA) document for this project. Due to the delay by outside agencies, the NEPA document was not approved until December 21, 2004 and staff was not officially notified until February 8, 2005.

Following that notification, staff requested and received authorization from City Council on October 18, 2005 to proceed with the right of way acquisition phase of this project. The right of way for this project has been secured and staff will request the right of way certification from the Department of Transportation in order to secure the remainder of the TEA-21 funds for construction.

On November 26, 2008, City Council authorized the allocation of Redevelopment Agency funds for a landscaped median on Osgood Road between Washington Boulevard and Blacow Road in order to provide a street design compatible with the new residential General Plan and zoning designations.

In advance of the street improvement project, the overhead lines and poles need to be relocated out of the construction area. PG&E, AT&T and Comcast are currently working on the relocation with an estimated completion date of late spring/early summer. There have been numerous delays on the pole relocation project by the agencies due to scheduling of construction crews and ordering of materials. Their original completion date was late winter/early spring. The project will be advertised for bids this spring with street improvement work beginning once the poles have been relocated.

Discussion:

Cooperative Agreement: The Osgood Road improvements will also involve modifications to and extensions of the existing storm drain system including new storm drain lines and structures. As originally designed, the proposed storm drain line would have conflicted with ACWD's existing 24-inch transmission main in Osgood Road. Because ACWD's facilities conflicted with the street improvement project under the original design, ACWD would normally have been required to relocate portions of their transmission line at the areas in conflict. However, relocation of the transmission main would have resulted in excessive costs to ACWD, water service outages to customers, and potential impacts to production and storage facilities. Staff agreed to modify the storm drain systems to eliminate the conflicts with the water main and ACWD agreed to fund the design and construction costs of the modified storm drain system.

Staff and ACWD negotiated a cooperative agreement under which ACWD will reimburse the City for its actual incremental additional costs caused by the storm drain design changes. Under the terms of the agreement, the City's construction contract will include separate line items for the additional storm drain elements (total estimated cost of \$79,000) and ACWD will reimburse the City for its actual costs (up to 50% over the estimated cost) as appropriate. ACWD will also pay \$15,800 to reimburse the City for the additional design and contract administration costs associated with the storm drain design modifications, as well as actual costs plus 10% for any ACWD approved change orders.

ACWD presented the cooperative agreement to their board at their November 5th meeting. The board adopted a resolution approving the agreement and authorized the General Manager to execute the Cooperative Agreement with the City of Fremont.

City Council adopted a mitigated negative declaration and approved the mitigation monitoring plan for the Osgood Improvements (PLN 2004-0084) at the March 23, 2004 City Council meeting.

No changes to the project or its circumstances have occurred and no new information has become available since adoption of the project mitigated negative declaration that would require preparation of additional environmental documentation.

ENCLOSURE: Cooperative Agreement with ACWD

RECOMMENDATION: Authorize the City Manager or his designee to execute a cooperative agreement with Alameda County Water District for the installation of storm drain facilities in lieu of relocating the water main for the Osgood Road Improvement project between Washington Boulevard and Grimmer Boulevard, 8173(PWC) in the estimated amount of \$94,800.

***2.6 RDA PROJECT CLOSE OUTS**

Approve the Close Out of Completed Redevelopment Projects

Contact Person:

Name:	Irene Klebanivska	Elisa Tierney
Title:	Redevelopment Agency Business Manager	Redevelopment Agency Director
Dept.:	Housing and Redevelopment	Housing and Redevelopment
Phone:	510-494-4510	510-494-4501
E-Mail:	iklebanivska@fremont.gov	etierney@fremont.gov

Executive Summary: The purpose of this staff report is to request the close out of completed, duplicated or inactive redevelopment projects and return unused appropriations to their respective funds for reprogramming in the upcoming FY 2009/10 Redevelopment Agency budget, work program and CIP. This item appears on the City Council and Redevelopment Agency Board agendas, since a number of City's capital projects receive funding contribution from redevelopment sources.

BACKGROUND: Staff maintains a listing of capital projects to be closed and periodically requests Agency Board approval of these close outs, typically in conjunction with the preparation of the Redevelopment Agency budget, work program and CIP. Some capital projects have remaining budget appropriations at project completion. Historically, projects with over-expended balances are offset against projects with under-expended balances within the same fund, and all are closed simultaneously. The net balances shown on the project close out list (Enclosure A) total \$2,632,759. The close outs enable any remaining project appropriations to be returned to their respective funds for programming in the future Redevelopment Agency budget and work program.

ENCLOSURE: Enclosure A: RDA Close Out List

RECOMMENDATION: Approve the close out of the redevelopment projects identified on Enclosure A and return the remaining project appropriations to their respective funds.

***2.7 INITIATION OF GENERAL VACATION PROCEEDINGS TO ABANDON A PORTION OF CALIFORNIA STREET (PLN2009-00009)**

Initiation of a Proceeding to Consider a General Vacation to Abandon a Portion of California Street Located Between Beacon Avenue and Walnut Avenue in the Central Planning Area

Contact Persons:

Name:	Wayne Morris	Jeff Schwob
Title:	Senior Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4729	510-494-4527
E-Mail:	wmorris@frer	schwob@fremont.gov

Executive Summary: Staff recommends that the City Council adopt a motion initiating general vacation proceedings to abandon a portion of California Street and direct the Clerk to set and provide notice of a public hearing to be held on February 24, 2009, following the provision of the public notice required by law. General vacation of California Street is requested to facilitate a more functional development on the Urban Housing project site located directly northeast. Staff anticipates that the Urban Housing development project will also be before Council on February 24, 2009.

BACKGROUND: The proposed general vacation would abandon the northern half (two lanes), an approximately 38 foot by 324 foot section totaling 12,319 square feet, of California Street between Beacon Avenue and Walnut Avenue located directly adjacent (southwest of) the Urban Housing development project in the Central Business District (CBD). California Street right of way is currently 102 feet wide and improved with four lanes, a parkway strip and sidewalk on the both sides, and designated as a collector road in the Fremont General Plan. The Urban Housing development, also to be reviewed by Council on February 24, 2009, would reconfigure California Street into a three-lane (two eastbound, toward Walnut Avenue, and one westbound, toward Beacon Avenue) 72 foot wide public right-of-way collector street with parkways and sidewalks on both sides and on-street parking on the northeast (project) side only.

The portion of California Street to be vacated is depicted on the enclosure.

Initiation of General Vacation Proceedings: The merits of the proposed general vacation are not presently before the City Council. The Council will consider the merits and decide whether to order a vacation at a public hearing held on February 24, 2009. The motion should also direct the Clerk to set the matter for hearing and to provide for required public notice.

ENCLOSURE: Map of the portion of California Street proposed to be vacated.

RECOMMENDATION: Adopt a motion initiating a general vacation proceeding pertaining to California Street and direct the Clerk to set and publicly notice a public hearing to be held on February 24, 2009.

***2.8 AUTHORIZATION TO ISSUE A PURCHASE ORDER TO SHAW INDUSTRIES, INC.
FOR FRC CARPETING**

**Authorization to Issue a Purchase Order to Shaw Industries, Inc. for Family Resource
Center Carpet Replacement**

Contact Person:

Name:	Leticia Leyva	Suzanne Shenfil
Title:	Management Analyst	Human Services Director
Dept.:	Human Services	Human Services
Phone:	510-574-2072	510-574-2051
E-Mail:	lleyva@fremont.gov	sshenfil@fremont.gov

Executive Summary: The purpose of this report is to request that the City Council authorize the City Manager or his designee to approve a purchase order for \$160,000 to Shaw Industries Inc. (Shaw), for carpet replacement at the Fremont Family Resource (FRC) under a California Multiple Award Schedule (CMAS) (4-08-72-0008B) contract negotiated by the State of California.

BACKGROUND: The City Council has approved the appropriation of \$160,000 in Community Development Block Grant (CDBG) funding to City Project No. PWC 8680 to replace the carpet in Suite C200 (Employment Development Department) and the common areas at the FRC. The Council appropriated \$100,000 on July 24, 2007, and \$60,000 on April 22, 2008. The FRC, now ten years old, is a unique collaborative effort composed of 24 state, county and City of Fremont organizations. Together, these organizations provide over 100,000 contacts to customers per year. Staff has worked with Shaw to select a highly durable, commercial grade carpet appropriate for the traffic at the FRC and is now requesting the Council to approve a purchase order with Shaw for the purchase and installation of the carpet.

The City previously issued a purchase order to Shaw under a sole source arrangement using the California Multiple Award Schedule (CMAS) contract negotiated by the State of California with Shaw Industries for purchase and installation of carpeting. Public Contract Code Section 10298 authorizes the City to utilize State contracts to purchase goods, information technology and services without competitive bidding. The City's purchasing ordinance also allows the City to enter into an agreement based on the terms of an existing contract between the vendor and another public agency without a competitive solicitation where the City Manager makes the findings set forth in Fremont Municipal Code (FMC) Section 2-9702. Those findings were made in 2003 and continue to be applicable.

The City would be using the CMAS contract and, therefore, would be purchasing carpet on the same terms as the state contract. Because the State of California has substantially greater purchasing power than the City, the CMAS contract will allow the City to obtain carpeting at a reasonable and fair price.

Finally, utilizing the CMAS contract is consistent with the purpose and goals of the purchasing code as set forth in FMC Section 2-9102. The CMAS contract is structured to comply with California procurement codes, guidelines and policies.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to issue a purchase order to Shaw Industries for carpet replacement at the FRC totaling \$160,000, using the CMAS contract No. 4-08-72-0008B.

***2.9 CONTRACT WITH ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY TO SUPPORT THE FREMONT FAMILY RESOURCE CENTER**

Authorization for the City Manager to Execute a FY 2008/09 Renewal Agreement with Alameda County Health Care Services Agency to Support the Fremont Family Resource Center

Contact Person:

Name:	Judy Schwartz	Suzanne Shenfil
Title:	FRC Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2007	510-574-2051
E-Mail:	jschwartz@fremont.gov	shenfil@fremont.gov

Executive Summary: The Alameda County Health Care Services Agency wishes to renew its \$100,000 funding commitment to the Fremont Family Resource Center (FRC) to support the center's infrastructure and to assist with implementation of new strategic goals. Council is being asked to authorize the City Manager to enter into an agreement with the County for the funds.

BACKGROUND: The Director of Health Care Services for Alameda County notified the Fremont Human Services Department that a recommendation was being made to the County Board of Supervisors to allocate \$100,000 for a third year to the Fremont Family Resource Center to provide infrastructure support and help implement new strategic goals recently developed by the FRC.

Funds will be used to continue the FRC's Family Economic Success Program, which includes the Volunteer Income Tax Assistance Program (VITA), Money Smart, and the Individual Development Account (IDA) program for FRC clients. The FRC also plans to continue the Community Advisory and Engagement Board as a vehicle for consumer involvement and to assist with marketing the services of the FRC. Funding will also allow for the continuation of the FRC's monthly training series, which is open to FRC staff members as well as staff from other social service agencies. This series now offers continuing education units to staff who attend. The FRC will also reinstitute its quarterly agency open house program on a bi-annual basis, as a vehicle for cross training staff of the 22 agencies at the FRC. This training allows for a more seamless delivery of services for FRC clients.

FY 2008/09 Agreement: ACHCS is providing \$100,000 for the term of November 1, 2008 through October 31, 2009 for support of the FRC infrastructure and family economic success programs. The Council appropriated this funding as part of the FY 2008/09 adopted budget.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to enter into an agreement with the Alameda County Health Care Services Agency in the amount of \$100,000 for the Fremont Family Resource Center.

***2.10 CONSTRUCTION OF NILES TOWN PLAZA PASSENGER DEPOT BUILDING MOVE AND RENOVATION**

Approve the Request from the Apparent Low-Bidder to Withdraw Their Bid, Waive Minor Bid Irregularities, Approve Plans and Specifications, and Award Contract for the Move and Renovation of Niles Passenger Depot Building (City Project No. PWC8614D)

Contact Person:

Name:	Michael Ma	Robert Kalkbrenner
Title:	Project Manager	Civic Facilities Development Manager
Dept.:	Community Development	Community Development
Phone:	510-494-4750	510-494-4428
E-Mail:	mma@fremont.gov	rkalkbrenner@fremont.gov

Executive Summary: On December 23, 2008, five bids were received for the construction contract for the move and renovation of the Niles Town Plaza passenger depot building. The apparent low-bidder, Grand California Construction, has requested that the City allow it to withdraw its bid. Staff recommends Council consent to the bid withdrawal, waive minor bid irregularities and award to the second low-bidder, River View Construction. Their bid is approximately \$95,000 greater than Grand California Construction's bid and approximately \$228,000 above the engineer's estimate.

BACKGROUND: The Niles Town Plaza Project was conceptually approved by the City Council and the Redevelopment Agency Board on July 12, 2005. The project includes construction of a two-acre plaza on the north side of Niles Boulevard at the terminus of H and I Streets. The project scope includes relocation and restoration of the Niles Passenger Depot Building.

Discussion: The bid documents for the construction of the Niles Town Plaza passenger depot were advertised on November 5 and 12, 2008. Bids were opened on December 23, 2008, and five bids were received. The engineer's estimate was \$550,000. The bid results range from \$683,754 (24% above the engineer's estimate) to \$1,006,802 (83% above the engineer's estimate). The bidders with their respective bid amounts are shown below.

	Bidder	Base Bid Amount
1.	Grand California Construction	\$683,754
2.	River View Construction	\$778,788
3.	B. Brothers Construction	\$895,500
4.	IMR Contractor Corp.	\$941,000
5.	Cal-Bay Construction, Inc.	\$1,006,802

Bid Protest: A bid protest to the first apparent lowest bidder, Grand California Construction & Development, Inc, was received from the second lowest bidder River View Construction. River View Construction argued that Grand California Construction & Development, Inc's, bid should be rejected as non-responsive because Grand California Construction & Development, Inc did not list its fire sprinkler subcontractor.

Bid Withdrawal: Subsequently, Grand California Construction & Development, Inc informed City staff that their failure to list the fire sprinkler subcontractor was a clerical error and requested that the City consent to withdrawal of their bid. The bidder has demonstrated that the mistake made their bid materially different than intended and was not due to error in judgment or carelessness in inspecting the site of the work, or in reading the plans or specifications. In addition, allowing the bidder to withdraw their bid will avert the need to resolve and the risks involved in the bid protest. Under these circumstances, staff recommends the Council accept Grand California Construction & Development, Inc's request to withdraw their bid

Minor Irregularity: The second lowest bidder River View Construction submitted their bid using the incorrect bid form. During the bid period, the City issued Addendum No. 2 which contained a number of clarifications and made minor changes to the bid form. River View Construction acknowledged receipt of Addendum No. 2 but mistakenly did not use the bid sheets from the addendum. The changes in Addendum No.2 included extending the amount of time the bidders would honor their bids from 60 to 90 calendar days, and adding language to allow the City to deduct certain bid items if it so chose. However, the bid schedule or list of bid items was not modified. River View Construction acknowledges receipt of Addendum No. 2 on their bid submittal which makes its provisions binding on them, The City is moving forward within 30 days of receiving the bids and is awarding the contract on the entire amount of the bid. As a general rule to be responsive the bid must conform to all the requirements of the bid documents. However, a bid that does not strictly conform to the bid specifications may be accepted if the deviation could not have affected the price of the bid or resulted in an advantage not allowed to the other bidders. Here, the irregularity would not have affected the amount of the bid as it does not relate to items of work or to the content of the bid schedule. Nor does it result in an advantage to River View Construction not granted to the other bidders. This irregularity does not constitute a clerical mistake that would have allowed River View Construction to withdraw its bid without forfeiting its bid bond as there was no difference in the bid schedules. Staff finds that the irregularity is inconsequential to the bid recommends that the Council waive the bid defects as a minor irregularity.

Staff recommends contract award to River View Construction. While River View's bid is higher than the engineer's estimate, rebidding the project would not guarantee lower bids. Also, rebidding would delay the project approximately two months. River View is qualified to perform this type of work. Currently they have moved and are renovating the Freight building.

Design Consultant: Garavaglia Architects

Appropriations: The proposed contract for the Niles Town Plaza Passenger Depot building (951 PWC 8614D) in the amount of \$778,788 will be funded from the Niles Town Plaza Redevelopment Agency Project (951 RDA 1032). Niles Town Plaza is part of the approved Redevelopment Agency work plan. Sufficient funding exists for the proposed contract.

Environmental Impact: California Department of Toxic Substances Control, as lead agency, prepared and certified a negative declaration on September 28, 2006, in conjunction with its approval of the Remedial Action Plan (RAP) for this project. In addition, the City prepared a mitigated negative declaration (MND) in conjunction with a conditional use permit for the Project both of which were approved by the Planning Commission on April 12, 2007 (Item 5.1). An Addendum to the MND was prepared on Aug. 13, 2007 to reflect a change in the location of the Freight Building. On Sept. 13, 2007,

the Planning Commission approved an amended CUP and found that it was within the scope of the previously approved MND and the Addendum. No further CEQA documentation is necessary at this time.

ENCLOSURE: Niles Town Plaza Passenger Depot Building plans and elevations from the construction plans and specifications

RECOMMENDATIONS:

1. Consent to the apparent low-bidder's, Grand California Construction, request to withdraw its bid for Niles Town Plaza Passenger Depot Building construction contract.
2. Approve Plans and Specifications for the move and renovation of the Niles Town Plaza Passenger Depot Building (City Project No. PWC 8614D).
3. Waive the minor irregularity in the bid and award the contract for the construction of Niles Town Plaza Passenger Depot building move and renovation City Project No. PWC8614D to River View Construction in the amount of \$778,788.00 and authorize the City Manager, or his designee, to execute the contract.

***2.11 HOUSEHOLD HAZARDOUS WASTE DROP-OFF FUNDING**

Appropriate \$355,000 of Integrated Waste Management Unallocated Fund Balance to Fully Fund Household Hazardous Waste Drop-Off Operations through June 2009

Contact Person:

Name:	Ken Pianin	Kathy Cote
Title:	Solid Waste Administrator	Environmental Services Division Manager
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4582	510-494-4583
E-Mail:	kpianin@fremont.gov	kcote@fremont.gov

Executive Summary: Fremont's Household Hazardous Waste (HHW) drop-off facility opened on July 1, 2008. The drop-off has been very successful and twice as many residents have used the facility as originally anticipated. Since HHW drop-off costs are a direct function of facility usage, additional funding is needed to continue supporting this high level of use. Staff recommends the City provide the additional funding in order to maintain current service levels rather than trying to reduce facility usage by cutting back the operating hours. Staff is recommending the City Council appropriate \$355,000 from the Integrated Waste Management Unallocated Fund balance to fully fund HHW drop-off operations at current service levels through June 2009. This funding would be in addition to \$350,000 the City receives annually from the Alameda County Waste Management Authority (Authority) for HHW drop-off operations, resulting in a total HHW drop-off budget of \$705,000 for FY 2008/09. Staff is further recommending that the City try to sustain the existing HHW drop-off service levels in FY 2009/10 and beyond by identifying supplemental funding sources such as ongoing Integrated Waste Management fees or obtaining additional funding from the Authority. A specific recommendation for FY 2009/10 funding and beyond will be presented to the Council as part of the FY 2009/10 budget process.

BACKGROUND: State law requires that the City provide for the appropriate disposal of Household Hazardous Waste (HHW) for its residents and small businesses. HHW consists of leftover household products that are corrosive, toxic, ignitable or reactive that can pollute the environment or pose a threat to human health if disposed of improperly. Examples include paints, cleaners, oils and pesticides. The City provides HHW disposal services through participation in a countywide program. The Alameda County Environmental Health Department, under Authority direction, operates three stand-alone HHW drop-off sites in the county: Oakland, Livermore and Hayward, which are open to residents (9 am – 1 pm) either three days per week (Oakland) or three days every other week (Livermore and Hayward). The Fremont location is the fourth facility in the countywide program and is operated by BLT Enterprises. It is the only facility in the county integrated with a transfer station and recycling facility. It is able to provide service at a lower cost per car than other county facilities and remain open for more hours because of the shared infrastructure and staffing. It is open weekly, Wednesday – Friday, 8:30 am – 2:30 pm, and Saturday 8:00 am – 4:30 pm, making it available to residents for substantially more hours per week than other county facilities. Since HHW usage is directly correlated to facility accessibility, staff believes the convenient hours and location have resulted in a substantial increase in City residents using a drop-off facility to dispose of their HHW material rather than stockpiling or using inappropriate disposal means. Prior to the opening of the Fremont HHW drop-off, the closest HHW facility to Fremont was in Hayward. This location was not convenient for many Fremont residents and

less than 3% of Fremont households used the Hayward HHW drop-off. Based upon usage to date, staff is estimating that 10,000 Fremont households (approximately 14%) will use the Fremont HHW drop-off in FY 2008/09.

Fremont HHW operations are funded through the county HHW program. The Authority sets the county HHW program fees and manages the program budget including any surplus or deficit. The HHW fee charged to each city is \$2.15 per ton of solid waste disposed of at any Alameda County landfill. Fremont disposal volumes result in an average \$380,000/year contribution into the countywide HHW program. Through an MOU with the Authority, Fremont receives \$350,000 of Fremont's contribution to operate the Fremont HHW drop-off. In exchange, the HHW facility service must service a minimum of 3,500 households, be open a minimum of 24 hours per month and be available to any Alameda County resident or qualifying small business. Currently, City residents account for 75% of the Fremont HHW users, with Union and Newark accounting for 20% and 5%, respectively, of users coming from other Alameda County jurisdictions.

Discussion: HHW drop-off costs are a direct function of facility usage. Based upon current usage, staff estimates that approximately \$700,000 per year will be needed to meet service demand. The City could choose to supplement the funding received from the Authority to meet service demand, request additional funding from the Authority, or try to reduce demand and cost by limiting operating hours, thus making the facility less convenient and less accessible to residents. Staff does not believe reducing service hours would be in the City's interest because this would likely result in HHW material being disposed of improperly. In addition to being more convenient and accessible to City residents, the Fremont HHW has been able to provide service at a lower cost per car than other county facilities, because the Fremont HHW drop-off is part of a larger transfer station and recycling facility and is able to take advantage of the infrastructure and some staffing already in place.

In summary, staff recommends maintaining the existing operating hours in order to adequately meet service demand. Staff is recommending using \$355,000 of Integrated Waste Management Unallocated Fund balance to pay for FY 2008/09 HHW operations. There is adequate fund balance available. Staff estimates the IWM unallocated fund balance as of June 2009 will be approximately \$3.2 million after the \$355,000 appropriation for HHW drop off operations. Use of this fund balance and the remaining fund balance level would be consistent with IWM fund balance policies previously established by the City Council.

Staff is further recommending that City try to sustain the existing HHW drop-off service levels for FY 2009/10 by identifying supplemental funding sources such as ongoing Integrated Waste Management fees or additional funding from the Authority. City staff will meet with Authority staff to determine if more county funding is available; however, the Fremont facility has a much higher usage level than the county funding currently provides for, even if Fremont received all of the funding contributed to the county program by Fremont, Newark and Union City. In order to support the current level of HHW drop-off usage, it is likely that some supplemental funding will be needed from the City's Integrated Waste Management fees. The Council will be considering IWM fee levels as part of the 2010/2011 solid waste rate setting later this calendar year. In addition, a specific recommendation for FY 2009/10 funding and beyond will be presented to the Council as part of the FY 2009/10 budget process.

ENCLOSURE: None

RECOMMENDATION: Appropriate \$355,000 of the Integrated Waste Management Unallocated Fund balance (fund 115) for FY 2008/09 Household Hazardous Waste drop-off operations.

***2.12 AUTHORIZATION TO ISSUE A PURCHASE ORDER TO INSIDE SOURCE FOR FIRE AND POLICE BUILDING FURNITURE**

Authorization to Issue a Purchase Order to Inside Source for the Purchase of Furniture to Outfit the Fire Department Administration/Training Center; Fire Station 11; Fire Tactical Training Center; and Police Department Indoor Gun Range

Contact Person:

Name:	Kelly Sessions	Bruce Martin
Title:	Business Manager	Fire Chief
Dept.:	Fire	Fire
Phone:	510-494-4281	510-494-4202
E-Mail:	ksessions@fremont.gov	bmartin@fremont.gov

Executive Summary: At the October 7, 2008 City Council meeting, Council approved Certificate of Participation financing, which included purchase of furniture for various capital improvement projects for Fire and Police. Staff has been able to secure best-available pricing by using a competitively-bid contract awarded by Cabrillo Community College to Inside Source, a dealer of Allsteel furniture. The City Manager has made the requisite findings in accordance with Fremont Municipal Code Section 2-9702. Staff recommends that the City Council authorize the City Manager or his designee to issue a purchase order for furniture for the Fire Department's Administrative Offices and Training Center in Building A; the Fire Tactical Training Center on Stevenson Blvd.; the new Fire Station 11; and the Police Department Indoor Gun Range, also on Stevenson Blvd.

BACKGROUND: With several capital improvement projects nearing completion or substantially underway, City Council approved Certificate of Participation financing on October 7, 2008 to purchase furniture to outfit several projects. The funding is now in place and staff has secured best-available pricing from Inside Source to make the purchase.

In March 2007, Inside Source, an authorized dealer of Allsteel furniture, was awarded the furniture contract for Cabrillo Community College after a competitive bid process which included four vendors: Haworth, Herman Miller, KI and Allsteel. Six months later in September 2007, that contract was amended to extend the discount pricing to other public agencies. Since then, other public agencies have taken advantage of this opportunity, including Foster City, the Woodside Fire Department and Cañada College; Las Positas Community College is also in process.

Discussion: City Purchasing Code Section 2-9702 allows the City to use the contract of another public agency if the City can demonstrate three things: (1) the terms of the new contract extended to the City are materially the same as the original public agency contract; (2) the terms of the new contract are more beneficial to the City than it would have been able to obtain if had it followed the normal Request for Proposals (RFP) process; and (3) by entering into the proposed contract, the City will meet the purpose and goals of the City's established purchasing ordinance. These requirements have been met and are documented in a memo that is on file in Finance.

In selecting the furniture for these projects, staff focused on purchasing basic quality products that would provide years of service and good value in the workplace and be consistent with other furniture

systems in the building. The Allsteel furniture offered by Inside Source meets all of these needs. Moreover, by bundling the furniture purchase of all four projects together, the City is able to obtain the highest volume discount pricing available, which in many cases is up to 72% off list-price. Staff, therefore, proposes to use the Cabrillo Community College/Inside Source contract for the following projects:

Fire Department Administration Offices and Training Center

Modular furniture will be purchased to outfit the new facility in the following approximate amounts:

- Install and furnish 21 cubicles with modular desks, work stations and task chairs
- Install modular desks, work stations and task chairs in 16 private or shared offices
- Furnish three conference rooms with conference room tables and chairs
- Furnish one document storage center and various other spaces with file cabinets
- Furnish two classrooms with tables and chairs to seat 132 participants
- Install work stations for public file review, informal meetings, etc.

Cost: \$350,170

Fire Station 11

- Furnish with work station task chairs, dining room table and chairs, living room furniture, etc.

Cost: \$17,430

Fire Department Tactical Training Center

- Install modular furniture, chairs and file cabinets for the administrative office space
- Purchase nesting tables and chairs for the classroom for approximately 32 participants

Cost: \$22,114

Police Department Indoor Gun Range

- Install modular furniture, chairs and file cabinets for the Range Master's Office
- Install storage room furniture
- Purchase nesting tables and chairs for the classroom for approximately 60 participants

Cost: \$54,873

TOTAL COST: \$444,587

The total bid price includes the cost of labor and materials. Where appropriate, Inside Source has agreed to store furniture in their warehouse at no charge to the City until the associated project construction is completed and the City is ready to take possession of the furniture.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to issue a purchase order to Inside Source for the purchase of furniture totaling \$444,587 using the Cabrillo Community College Contract, Bid No. 2007-03.

6.1 Report Out from Closed Session of Any Final Action

7.1 LEGISLATIVE POLICIES AND FUNDING PRIORITIES

Adoption of City Legislative Policies and Funding Priorities for 2009

Contact Person:

Name:	Aretha Harvey	Melissa Stevenson Dile
Title:	Management Fellow	Deputy City Manager
Dept.:	City Manager's Office	City Manager's Office
Phone:	510-284-4012	510-284-4005
E-Mail:	aharvey@fremont.gov	mdile@fremont.gov

Executive Summary: Each year, the City Council adopts Legislative Policies and Funding Priorities to guide the City's legislative advocacy efforts during the year. Adoption of such a list enables both Council and staff to react quickly to most legislative issues as they arise. Staff recommends Council adopt the 2009 Legislative Policies and Funding Priorities.

BACKGROUND: Since 2001, the City Council has formally adopted Legislative Policies and Funding Priorities to guide Council and staff advocacy efforts during the year. These policies and priorities are then given to the City's Legislators so that they know the City's position on a broad range of important issues.

The majority of the policies and funding priorities proposed for 2009 are in line with last year's list. However, there are a couple of new issues that are worth noting. First, given the state of the economy, the City supports state and federal efforts to pass an economic stimulus package to support job growth and infrastructure projects. Second, the City supports climate protection efforts that would contribute to reducing global warming pollution levels to 25% below the 2005 levels by 2020.

Item Discussion:

LEGISLATIVE POLICIES

The City of Fremont opposes any legislation or regulations that preempt local authority, negatively impact the City's budget, and/or impose unfunded mandates on the City. The City supports the use of incentives to encourage local government action, rather than the imposition of mandates. In general, the City of Fremont only takes positions on issues of direct relevance to local governments. Issues not directly relevant to local governments may be handled on a case-by-case basis.

Economic Development

- Support state and federal efforts to enact an Economic Stimulus Package.
- Support state and federal efforts to financially support small business entrepreneurship training and assistance.

Elections

- **All-mail ballot elections:** The City supports legislation to allow cities to conduct all-mail ballot elections, particularly for stand-alone local elections. Such elections will help cash-strapped local governments save money.

Employee Relations

- **Mandated employee benefits:** Decisions about employees' health and retirement benefits should be made at the local level, through the collective bargaining process, not mandated by the State. Therefore, the City opposes legislation mandating new or enhanced local employee benefits because such benefits can impose financial costs and administrative burdens on local governments.
- **4850 benefits:** Under current law (Labor Code Section 4850), public safety employees who are totally temporarily disabled by injury or illness on the job are entitled to a leave of absence at full salary, tax free, for up to one year. The City opposes legislation to extend that timeframe.
- **Workers' compensation:** The City opposes any new or additional workers' compensation benefits and supports legislation to further reform the system and lower employer costs.
- **Second tier PERS benefits:** Existing law allows a CalPERS local contracting agency to amend its contract with CalPERS in order to create a second tier of benefits, subject to certain restrictions. The second tier can only apply to employees who are hired after the contract effective date or who change membership classification after the contract amendment date. Existing law also prohibits local agencies from amending their contracts with CalPERS to reduce employee benefits for existing employees. However, a second tier, which applies to prospective employees only, may provide a lesser or different level of optional benefits than exists for employees in the first tier. The City opposes legislation to eliminate a local contracting agency's ability to reduce or modify benefits for new employees of the agency.
- **Mandatory Social Security coverage:** Various federal commissions and entities have recommended mandatory Social Security coverage for newly hired local government employees. This is, at best, a short-term solution to a federal government problem and would result in additional salary costs to both the City and newly hired employees. Public plans (e.g., CalPERS) were established before Social Security and continue to serve employees well. Social Security - not public plans - has lived beyond its means, resulting in attempts to find new revenues (e.g., bringing newly hired local government employees into the system). The City opposes mandatory Social Security coverage.
- **Social Security and local government pensions:** Current law provides for reduced Social Security benefits if an employee retires from a local agency and is also eligible for Social Security benefits for work performed at another employer that participated in Social Security. This occurs through either the Windfall Elimination Provision (WEP), because of the employee's own Social Security account, or the Government Pension Offset (GPO), because of the employee's access to the account of a spouse or ex-spouse. Because of these provisions, a potential employee who has spent the majority of his or her career in the private sector could be disinclined to consider a position in the public sector because of the associated decrease in the Social Security pension. The City supports modifying the legislation so that City employees are not penalized for work performed in addition to their local government service.
- **Pension reform:** Employer costs for the State's defined benefit retirement system (CalPERS) have increased significantly in recent years. The Governor and the Legislature are exploring various means of achieving cost control and budget certainty. The City supports pension reform, provided that it achieves savings without imposing additional costs.
- **Retiree medical:** As a result of a Governmental Accounting Standards Board (GASB) change, local agencies are now required to account for their liability for retiree medical benefits, also known as Other Post-Employment Benefits (OPEB). Instead of accounting for these benefits on a pay-as-you-go basis, which is what many local governments did, agencies are now required to report their annual OPEB costs and their unfunded actuarial liabilities for past service costs. The new GASB requirements are intended to improve transparency in government accounts by making it easier to determine the

future liability for OPEB expenses for a given government and to assess whether the government has a strategy for meeting these requirements. The California Public Employees' Retirement System is offering local agencies a program to pre-fund their OPEB obligations. While the City may choose to participate in such a program in the future, the City opposes any legislation that would make such participation mandatory. The City does, however, support legislation that expands the universe of employee self-funded medical benefits on a tax-advantaged basis under State law in coordination with programs and funding mechanisms developed under federal law.

Environment

- **Recycling:** The City supports continuation of existing Source Reduction & Recycling Act (AB 939) waste diversion requirements. The City also supports diversion measurement and reporting improvements that do not adversely impact the assessment of compliance efforts made by local jurisdictions. Local jurisdictions should be considered in compliance with AB 939 goals if they have met the waste diversion goals or if they are making a good faith effort to implement applicable Source Reduction and Recycling Element (SRRE) programs.
- **Sustainable development:** The City supports legislation that provides financial and technical support to local government in implementing sustainable development practices such as transit-friendly development, "green building," and other sustainable practices.
- **Climate protection:** The City supports legislation and policies that assist local government in meeting or exceeding locally established goals of reducing global warming pollution levels to 25% below the 2005 levels by 2020. These efforts may include reducing dependence on fossil fuels, developing alternative energy resources, and developing fuel-efficient technologies.
- **Local autonomy:** The City opposes legislation that preempts local planning decisions regarding solid waste facility sites, preempts local solid waste and AB 939 fee setting authority, or imposes taxes or fees on local solid waste programs to fund State programs not directly related to solid waste management.
- **Landfill:** The City supports legislation and the development of alternative technologies that mitigate the environmental impact of landfills.
- **Litter control and abatement:** The City supports legislation to address litter control and abatement problems in California, including measures that assist local and regional jurisdictions with enforcement and abatement and expand the authority of the California Highway Patrol to include enforcement measures for any vehicle generating litter on public roads; provide for effective enforcement of antilitter laws; implement a strong statewide anti-litter outreach campaign; and provide funding for cleanup of littered areas. The City supports development of regulations that reduce the use of single-use carry out bags and resulting litter and waste, and encourages the use of durable reusable bags.
- **Producer responsibility:** The City supports legislation to require manufacturers to assume financial and/or physical responsibility for the costs of collecting, processing, recycling, or disposing of products at end-of-life, especially products that create significant economic burdens on local government for end-of-life management because high volumes of the material exist in the waste stream, or because the nature of the product makes it difficult to manage in the current integrated waste management system; including computer, electronic and other products that incorporate hazardous materials requiring special handling.
- **Recycled product market development:** The City supports legislation encouraging manufacturers to include post-consumer recycled material in their products, and encouraging state and local government agencies and school districts to purchase products made with post-consumer recycled

material, that reduce waste, and that reduce toxicity of materials that may be discarded or disposed in the future.

- **Stormwater program funding:** The City supports legislation that would make it easier for cities to fund and comply with new and increasingly stringent storm water quality permit requirements, including adding fees for storm water management programs to those voter approved exemptions already included in Proposition 218.

Homeland Security and Public Safety

- **Reimbursement:** Since the events of September 11, cities have had to assume additional staffing and equipment costs for emergency preparedness and public safety. Although local governments are usually the first to respond in cases of natural disasters and acts of terrorism, they receive little financial and technical assistance from the State and federal governments. The City supports legislation to provide resources for emergency planning, training, exercises, and equipment for emergency workers.
- **COPS funding:** The City supports funding for the Citizens' Option for Public Safety (COPS) program, which helps pay for police officer salaries and benefits.
- **Fire service funding:** The City supports funding for disaster preparedness and training, including the Staffing for Adequate Fire and Emergency Response (SAFER) program, which helps pay for firefighter salaries and benefits, and funding for the Metropolitan Medical Response System (MMRS).
- **Fire protection in schools:** The City supports requiring the installation of automatic fire sprinkler systems in new and remodeled schools. The City has a comprehensive fire sprinkler ordinance that requires fire sprinkler systems to be installed in all new buildings and existing apartment buildings with internal corridors accommodating ten or more apartments. Because public schools fall under the State's jurisdiction, however, this life- and property-saving ordinance does not apply to them.
- **TASERs:** The City does not oppose further research efforts on the effects of the TASER, a less-lethal weapon that can protect police officers from injuries suffered during arrests. However, the City does oppose a ban or severe restrictions on the use of the TASER while any study is being conducted. Should such a study be commissioned, local law enforcement must be included in the development of a study plan.

Human Services

- **Additional funding for Multipurpose Senior Service Program:** The Multipurpose Senior Service Program (MSSP) diverts nursing home-eligible elders from institutional placement. Forty-one sites, including Fremont, provide care management for frail elderly clients who must be certified for placement in a nursing facility but who choose to live at home with MSSP support. The program is a cost-effective alternative to nursing homes, and every dollar the State spends on MSSP is matched by a federal dollar. The MSSP program has had only one small increase in funding in 22 years. The City, therefore, supports increasing State funding for this important program through the passage of a cost-of-living adjustment and an increase in the number of participant slots available for the program.
- **Services for seniors:** The City opposes funding cuts for community-based programs that serve seniors, and supports cost-of-living adjustments for Social Security and other entitlement programs.
- **Medi-Cal access and health care funding:** The City supports easing access to Medi-Cal so that more needy people can qualify for benefits. In addition, the City supports reducing the bureaucratic hurdles that make it difficult for those who qualify for Medi-Cal to receive the

benefit. In addition, the City supports expanding funding for health care for low-income and/or medically indigent individuals.

- **CalWorks:** The City opposes any reductions in the CalWorks program, including reductions in the time beneficiaries are allowed to receive welfare benefits.
- **At-risk youth:** The City supports funding for programs, such as Proposition 49 and Proposition 10, which provide early intervention to reach at-risk youth of all ages.
- **Family Resource Centers:** The City supports funding for family resource centers, which provide comprehensive integrated programs to improve the quality of life and strengthen individuals, teens, and families through services and activities.
- **Economic self-sufficiency:** The City supports funding for family economic self-sufficiency programs such as money management classes, Individual Development Accounts (IDAs) and the Volunteer Income Tax Assistance (VITA) program, which helps low-income individuals file their tax returns and qualify for the various credits and deductions available to them.
- **Services for special populations:** The City supports providing funding for affordable housing and other supportive services for special populations like people living with AIDS or other disabilities and the mentally ill.
- **Mental health:** The City supports providing funding for community education about the value of early intervention and treatment for mental disorders, including substance abuse. The City also supports enforcement of regulations requiring that health insurance policies treat addiction and mental illness on a par with other illnesses.

Land Use

- **Preservation of local land use authority:** The City opposes legislation that would remove or limit local government land use authority.
- **Housing elements:** The City opposes legislation that penalizes local governments for noncompliance with their housing element requirements. Proposed penalties have included loss of gas tax funds and court-ordered penalties for noncompliance.

Parks and Recreation

- **Playground safety guidelines:** Playground safety guidelines are often manufacturer-driven but devolve to local governments as State mandates. The City supports legislation that protects cities from liability for use of playgrounds, and supports ensuring that all new safety mandates come with associated funding to help cities comply with the guidelines.
- **Day camps:** The State's Health and Safety Code exempts city recreation programs from registering as child daycare providers, but only if those programs are operated for a total of 12 or fewer weeks during a 12-month period. This total applies to any 12 weeks within a 12-month period, without regard to whether the weeks are consecutive. As a consequence, school-aged children have fewer safe, fun options for spending their vacation days, and their working parents must find alternate, possibly more expensive activities for them. The City opposes legislation that limits the City's ability to offer day camp programming during the summer and other school vacations.

Redevelopment

- **Investment in facilities with regional benefit:** Investment in facilities of regional benefit, especially mass transit, should be de facto approved uses for redevelopment funds, inside or outside of project area boundaries. Relaxation of restrictions on strict benefit findings, and elimination of grounds for challenge in this area, would help agencies. In order to fund investments in facilities of regional

benefit, a streamlined and expedited amendment process should be established for pre-1994 redevelopment plans that seek to increase tax increment receipt limits for this purpose.

- **Benefits of redevelopment:** The City supports efforts to assess redevelopment social and financial benefits. Because there is little collection of such performance data, redevelopment agency funds are vulnerable to redirection and State takeaway, while redevelopment agencies have been threatened by statewide initiatives that would severely curtail redevelopment activities. The City supports efforts to determine the number of jobs created, taxes generated from redevelopment agencies, and other community benefits.
- **Affordable housing:** Fremont has been aggressive in spurring affordable housing development, and any State takeaways of unencumbered Redevelopment Agency Affordable Housing Funds would be catastrophic. There must be a recognition that redevelopment agencies do not typically encumber or reserve housing funds in the same manner as typical services and equipment purchases. An affordable housing development generally requires three to five years to build the equity necessary to complete a project. Therefore, Affordable Housing Funds should be considered encumbered once the Agency Board has passed a resolution or taken some other formal action to reserve funds for a particular housing development or program.
- **Redevelopment housing set-aside:** Under current law, 20% of redevelopment tax increment dollars must be set aside for affordable housing. In 2006, legislation was introduced to increase the amount a redevelopment agency would be required to set aside for its low and moderate income housing obligation from 20% to 50%. The Fremont Redevelopment Agency has used and continues to set aside a majority of its redevelopment funds for projects that have regional benefit, such as transportation improvements along freeways and projects that will facilitate the future BART extension to Santa Clara County. Any increase in the required housing set aside will limit the Agency's ability to pursue such regionally beneficial projects. In addition, such a change will not guarantee the provision of any additional affordable housing projects since such projects generally must rely on a variety of funding sources for completion. The City therefore opposes any increase in the required affordable housing set aside.
- **Selective eminent domain:** In the face of poorly informed public concerns about the effects of a U.S. Supreme Court decision regarding local use of eminent domain powers (the *Kelo* decision), it is important to recognize and preserve the legitimate use of redevelopment eminent domain powers, primarily concerning non-residential properties, for the elimination of blight and the revitalization of neighborhoods and commercial districts in established project areas that have met stringent statutory requirement for their formation. The Fremont Redevelopment Agency has been successful in undertaking redevelopment activities with very limited use of eminent domain. However, revitalization of the City's historic commercial district project areas, and certain transportation projects with regional benefit, may occasionally require the selective use of eminent domain to assemble viable sites for private reinvestment and redevelopment. Loss of such power through overly broad legislative reactions to the *Kelo* decision could seriously impair redevelopment agencies' ability to perform the very purposes assigned to them under the Community Redevelopment Law - elimination of blight, revitalization of commercial districts, and provision of local jobs for project area residents. Instead, the City supports reforming redevelopment through the passage of legislation making it more difficult to use eminent domain, for private economic development purposes, on owner-occupied single family homes.

Revenue and Taxation

- **Fiscal reform:** Since 1991, the State has drained more than \$30 billion of local property taxes from cities, counties and special districts - costing cities alone more than \$7 billion over the last 12 years. Even in years of budget surpluses, the State has used local funds to finance its constitutional funding obligation to public education, allowing it to increase State general fund spending for other programs at the expense of vital local services. The passage of Proposition 1A on the November 2004 ballot guaranteed the City some measure of protection against future State raids. Under the terms of Proposition 1A, however, the State can proclaim “severe fiscal hardship” and once again “borrow” local revenues, twice within a ten-year period and providing prior loans have been repaid. Local government cannot continue to subsidize the State. Every time Sacramento dips into local coffers to help balance its budget, cities and counties must cut critical local services like public safety and maintenance. The City opposes State efforts to “borrow” additional local revenues and encourages the State to find other ways to balance its budget. If the State does borrow despite local governments’ protests, the loan should be repaid at an appropriate rate of interest.
- **Lower threshold for local taxes:** Local governments cannot easily raise revenues. Taxes to fund specific, important services, like park and street maintenance, public safety, and library hours, must be approved by a two-thirds majority of the voters. This high vote requirement makes it extremely difficult for many cities to raise needed monies. The City therefore supports a constitutional amendment to lower the threshold for approval of local taxes to either 55% (the same requirement schools now face) or to a simple majority.
- **E-commerce:** Sales of goods and products over the Internet pose a serious threat to the City’s overall sales tax revenue base. At a minimum, the Legislature should enact legislation to close the loophole in current law that allows corporations with a physical presence, or nexus, in California to evade their sales and use tax obligations by setting up related web-based businesses based outside California.
- **Flexibility in use of funds:** The State has discovered that it can change rules regarding funds normally devoted to specific purposes to deal with its budget crisis. Since the State has decided that it must burden local governments with some share of its budget problem, then it should help mitigate that burden by loosening restrictions on restricted funds. Though it provides no fiscal relief, any rules relating to maintenance of effort (MOE) should be suspended. Until local and State government finance is reformed, restrictions should be lifted to provide the highest levels of discretion to elected representatives to manage the financial affairs of their jurisdictions.

Telecommunications

The City supports legislation to ensure consumer access to efficient, cost-effective and innovative telecommunication services.

- **Build-out of facilities:** Address a reasonable timeframe for deployment of telecommunications services by providers that includes a clear plan for sequencing of the build-out of facilities within an entire franchise area.
- **Revenues from telecommunications:** Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- **Use of public rights-of-way:** Support local government’s ability to regulate use of public rights-of-way. Local governments are important and proven stewards of the public rights-of-way and are pivotal in helping to prevent public safety issues resulting from overcrowding and improper use;

ensuring local emergency (911) services are provided; as well as addressing customer service and local business concerns.

- **Municipal broadband networks:** Preserve local authority to deploy and operate municipal broadband networks, either through public-private partnerships or systems wholly owned by the municipality.

Transportation and Infrastructure

- **Lower threshold for approval of transportation sales taxes:** The City supports a constitutional amendment to lower the threshold for approval of sales and use taxes for transportation purposes. Currently, such taxes must be approved by two-thirds of the voters. The City supports lowering the requirement to either 55% (the same requirement schools now face) or to a simple majority.
- **Fuel tax increase:** The voters last increased the State fuel tax in June 1990 when Proposition 111 passed. This measure doubled the State fuel tax to 18 cents a gallon. Since then, California's fuel tax rate has lost much of its buying power. The City supports fuel tax indexing or an increase to provide additional funding for local street projects and especially maintenance.
- **State funding for grade separations:** The State of California has funding set aside to assist local governments in completing grade separation projects. Such projects enhance a community's quality of life by improving the safety for autos, bicycles and pedestrians, and reducing both the noise from train whistles and the traffic delays that accompany trains crossing busy intersections. However, cities are having tremendous difficulty accessing the funding. The California Code of Regulations (Title 21, Section 1554) requires an "agreement that railroad or railroads shall contribute a minimum of 10 percent of the cost of the project without a maximum dollar limitation on the railroad's contribution, except that the contribution may be less than 10 percent of the cost of the project where expressly so provided by law." In interpreting this regulation, CalTrans has held that railroads must pledge to contribute a minimum of 10% of the actual final project cost, not of the estimated cost of the project. The railroads are reluctant to agree to this because the final project cost and, therefore, the required contribution cannot be known until the project is complete. This means the railroad would have to agree to an unknown, uncapped contribution. The City supports legislation to clarify that the railroads' required contribution shall be a minimum of 10% of the estimated project cost.
- **Preservation of eminent domain for infrastructure:** The negative public reaction to the Supreme Court's decision in the *Kelo* case threatens traditional uses of eminent domain for acquisition of property needed for public infrastructure projects. Reform proposals that would increase the costs to acquire property will have a direct negative impact on the public. Proposed measures that would prohibit acquisition of residential property through eminent domain could stop projects needed for safety and capacity, such as widening streets. The preservation of this core use of condemnation authority is critical.
- **Transit use and wetlands:** The objective of the Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." The CWA, therefore, prohibits the discharge of dredged or fill material into the waters. The CWA does allow for some discharges but requires compensatory mitigation to replace the loss of wetland functions in the watershed. Compensatory mitigation is defined as, "the restoration, creation, enhancement, or in exceptional cases preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable impacts." In California, the Department of Fish and Game usually requires three acres of wetlands be set aside for every one acre of wetlands damaged. While preserving wetlands is an important goal, the City supports legislation to reduce the requirement

when other public purposes, such as transit, are served by a project. Providing for a transit facility, and thereby minimizing traffic and its associated pollution, will ultimately help the environment and protect the wetlands, possibly more than compensatory mitigation requirements. But such facilities may not be financially feasible once the cost of the compensatory mitigation is factored into the project's total cost.

- **Peak congestion:** The City supports legislation to provide funding to help mitigate the traffic impacts of projects that create peak period congestion.
- **Economic stimulus for infrastructure projects:** The City supports state and federal legislation to provide funds for local government infrastructure projects. Specifically, the City supports recommendations developed by the International City/County Management Association, National League of Cities, and National Association of Counties that encourage funding for infrastructure projects that can be initiated quickly; projects that focus on retrofitting existing building for energy efficiency; support for individuals through state and local programs that provide job training and public employment; and local government access to capital through the purchase of municipal bonds directly by the Treasury Department and the Federal Reserve. In addition, the City supports the requirement that rating agencies use comparable ratings for all securities to better reflect the financial soundness of municipal bonds.

FUNDING PRIORITIES

1. **State and Federal Economic Stimulus Projects:** The state and federal governments have both discussed economic stimulus proposals that would fund important public infrastructure projects. Staff has been asked on several occasions by regional, state and national agencies and organizations to submit lists of infrastructure projects important to the City that meet various criteria. All requests required that the projects be un-funded or under-funded and that they can be under construction quickly, no more than one year from funding approval. Some requests have focused on green projects and some have focused on projects that generate local jobs. The attached list of projects has been submitted in response to these various requests. Once the specific funding parameters are known, some or all of these projects may be eligible for funding. Staff will return to the Council if and when a stimulus package is passed to seek Council approval to pursue funding for City infrastructure needs. **Estimated cost of all projects – approximately \$430 million.**
2. **Warm Springs BART Extension:** The extension of BART from Fremont to Silicon Valley is the City's top transportation priority. The Warm Springs Extension is fully funded, but should additional funding be required as the project proceeds, the City will support BART's pursuit of additional regional, state or federal funds.
3. **Mission Boulevard/I-880 Interchange Improvement Project:** The City is working with the Alameda County Transportation Authority (ACTA), CalTrans, and the Santa Clara Valley Transportation Authority (VTA) on a project to improve the Mission Boulevard interchange area. Phase IA of the project has been completed. Phase IB includes widening Mission Boulevard and constructing on and off ramps from Mission Boulevard to Kato Road, which were removed in Phase IA. Phase II includes a grade separation at Warren Avenue to facilitate the BART extension to San Jose and eliminate the Union Pacific Railroad grade crossings that are routinely blocked by freight trains. The project also requires changes to the Truck-to-Rail Transfer Facility south of Warren Avenue to accommodate the Warren Avenue Grade Separation and the future BART extension

improvements. The City has committed over \$40 million to the project, including almost \$8 million of City-owned right-of-way. **Estimated shortfall for Phase 1B, and 2 - None at this time, but design is only 65% complete and final construction estimates have not been prepared.**

4. **Irvington BART Station:** As far back as 1979, plans for the Warm Springs BART Extension have assumed the extension would include an Irvington BART Station located near the intersection of Washington Boulevard and Osgood Road. In the 1980s, when the Metropolitan Transportation Commission (MTC) established funding priorities for new rail transit starts and extensions in MTC Resolution 1876, it was agreed that BART extensions to Pittsburgh, Dublin, and Warm Springs would all add two new stations. However, due to funding constraints, BART's supplemental EIR included the Irvington Station as a future station. The City, through its Redevelopment Agency, is pursuing funding for the Station by amending its Redevelopment Plan. However, the City and Agency seek regional, state and federal funding for the Irvington Station to offset a portion of the Agency's cost. **Estimated cost is \$99 million (in 2008 dollars).**
5. **Street/Pavement Rehabilitation:** The City's streets are our highest valued capital asset, with an investment of over \$1 billion. As any street system ages and traffic loading increases (caused by increasing traffic, changes in bus routes and the use of heavier waste hauling and delivery trucks), the long-term maintenance needs increase. The City's Pavement Management System (PMS) has identified approximately \$175 million in needed pavement maintenance over the next five years. That level of funding would bring the entire street system up to a Pavement Condition Index (PCI) of 78. The optimal PCI is 83. The City only has funding for approximately \$4.8 million annually for pavement rehabilitation projects. **Estimated shortfall - up to \$151 million over the next 5 years.**
6. **Interoperability:** The City's Police, Fire, and Maintenance Departments rely upon the Alameda County Radio System for communications. The City joined the County's system, and purchased the requisite equipment, in order to have better interoperability with neighboring communities and the County. The current analog communication system is proprietary and does not communicate with other local agencies (such as the Oakland and Hayward Police Departments) not using the Motorola SMARTNET system. Alameda County signed a contract with Motorola to develop a digital communication system that would be able to interface with the systems used by other agencies, thereby providing interoperability throughout the region. Once the new system is developed and deployed, all users would need to upgrade to digital equipment. **Estimated shortfall - up to \$5.6 million.**
7. **I-680/I-880 Cross Connectors:** The City has been working with ACTIA, the Alameda County CMA and VTA regarding improving one or more connections between I-680 and I-880, called "cross connectors". VTA has completed an evaluation of the short-term and long-term projects encompassed by the cross connector study. The short-term improvements include the widening of Mission Boulevard between Warm Springs Boulevard and I-680 (estimated cost \$65 million); widening of Auto Mall Parkway to six lanes (estimated cost \$40-\$45 million); widening Fremont/Grimmer Boulevards at grade to six lanes (estimated cost \$55-\$66 million); and improving Kato Road to include a new I-880 overcrossing to Fremont Boulevard (estimated cost \$33-\$38 million). Neither the City nor VTA has been able to identify any funding for these projects. **Estimated shortfall - \$193-\$214 million.**

8. **ADA Compliance for Intersections:** The City desires to upgrade or install intersection ramps to comply with the latest Americans with Disabilities Acts (ADA) standards within the public right-of-way. The new ramps will meet the ADA requirements for slopes, landings, and detectable warning surfaces. The ramps will improve the accessibility of public sidewalks, and the detectable warning surfaces will alert visually impaired pedestrians to the presence of an intersection. **Estimated shortfall - \$45 million.**
9. **Sidewalk Repair:** The City's infrastructure, in many areas, is over forty years old, and the street trees are just as old or older. The roots from these street trees can displace pavement and cause hazardous conditions for pedestrians and cyclists. The City now provides temporary patches and has a long-term plan to fix sidewalks. However, the needs exceed the City's available resources. As the City ages, this problem will grow unless funds can be secured to increase capacity to deal with the street trees and sidewalks. **Current estimated shortfall – up to \$25 million.**
10. **Citywide Fiber Optic and Intelligent Transportation Systems (ITS) Deployment:** As the City's existing copper signal interconnect cable (that communicates media for the City's traffic signals) ages and becomes obsolete, it needs to be replaced by high bandwidth fiber optic cable. The use of fiber optic cable provides unlimited possibilities to serve other City needs and facilities not available in the past with copper interconnect cable. Fiber optic cables can link traffic signals, closed circuit television cameras, and changeable message signs. In addition, the use of fiber optic cable gives the City the ability to provide a more secure and reliable high bandwidth connection to other city facilities such as fire stations, community centers, recreation centers, and libraries. These facilities are either not connected at all, or they are on less reliable, lower bandwidth, leased lines. Installing fiber optic cable also gives the City the opportunity to provide wireless private and public "hotspots" at high-density public gathering places. These hot-spots will facilitate emergency response by providing both police officers and firefighters with the same online computer access in their vehicles on the street as they would get if they were sitting in a City office. This project, which can be phased and constructed on a segment-by-segment basis, would install fiber optic cable throughout Fremont to interconnect facilities such as traffic signals, fire stations, community centers, recreation centers, and libraries. In addition, the installation of closed circuit television cameras and changeable message signs throughout the city would enable staff to better manage and direct traffic. **Estimated cost - \$12 million.**
11. **Grade Separation Study:** By the year 2012, the number of trains (primarily commuter trains) crossing four major streets in the Centerville Area is projected to increase from the present 20 crossings per day to over 50 crossings per day. After 2012, the number of daily crossings is projected to continuously increase and consequently increase traffic delays at the four at-grade crossings: Fremont Boulevard, Maple Street, Dusterberry Way and Blacow Road. Several of these roads are critical commute routes that are already experiencing traffic delays due to these grade crossings. A 150% increase in the number of crossings would greatly exacerbate this problem. A grade separation study would evaluate the feasibility and cost of adding grade separations at each of these four major streets that will be impacted by the dramatic increase in the number of trains which pass through this area. **Estimated cost - \$200,000.**

- 12. Mowry Avenue Widening between Overacker Avenue and Mission Boulevard (under two active railroad bridges):** The segment of Mowry Avenue between Overacker Avenue and Mission Boulevard passes under two old narrow railroad bridges that force the roadway to narrow to one lane in each direction. This segment of Mowry is one of the most congested roadways in the City. In fact, this segment was determined to be “deficient” by the County’s Congestion Management Agency. To eliminate the bottleneck, this segment of Mowry Avenue needs to be widened to two lanes in each direction. This requires demolishing and reconstructing both railroad bridges while maintaining freight service and widening the street. **Estimated cost - \$50-55 million.**

FISCAL IMPACT: Varies.

ENCLOSURE: A list of possible projects which may qualify for funding by a state or federal economic stimulus package.

RECOMMENDATION: Adopt the 2009 Legislative Policies and Funding Priorities and authorize the Mayor to convey the Legislative Policies and Funding Priorities to Assemblymember Torrico and Senator Corbett.

7.2 CIP PROCESS UPDATE AND PWC CLOSE OUTS

Presentation of CIP Progress, Capital Revenue Projections and Initial Project Prioritization, and Approve the Close Out of Completed Capital Projects

Contact Person:

Name:	Sean O'Shea	Norm Hughes
Title:	Management Analyst II	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4777	510-494-4748
E-Mail:	soshea@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this item is to present an update on the Capital Improvement Program (CIP) process, review projected revenues and initial project prioritization for the FY 2009/10 – 2013/14 CIP program, and recommend projects for further costing and scoping. This report also requests that the City Council close out 17 completed capital projects and defund three projects' unused appropriations to their respective funds for reprogramming in the next Capital Improvement Program budget.

BACKGROUND: The purpose of the CIP is to translate capital improvement policies of the City Council into specific projects to be implemented during the upcoming five-year period. The CIP development process involves a comprehensive internal project planning effort, and multiple opportunities for the City Council to review the progress of the CIP development and to provide direction to staff. On December 16, 2008, the City Council held a work session, during which staff described the CIP process, reviewed the CIP prioritization policy, and presented the FY 2009/10 – 2013/14 CIP program schedule. Since the December 16 work session, staff has prioritized the capital project proposals and developed recommendations for the Council on projects to move forward for further costing and scoping in the CIP process. The presentation at tonight's meeting also provides an update on initial revenue projections for the various capital fund groups.

Discussion:

Project Prioritization: CIP project proposals have been sorted into fund groups and prioritized based on the most appropriate primary funding source for the project. After determining proper fund groups, projects were prioritized based on the Council-approved CIP Prioritization Guidelines, which advocate highest priority for capital maintenance that protects health and safety, and preserving asset life. Enclosure A includes projects in each fund group prioritized to a funding line that incorporates revenues, interest income, and balances available for the fund group. Staff's recommendations for projects in all fund groups to receive further costing and scoping lie above the given funding line. Staff asks that the Council review and comment on the project prioritizations for each fund group.

Revenues: Updated revenue figures are available in Enclosure A.

PWC Status and Close Outs: The City currently manages over 200 capital projects in various stages of development that have received appropriation of funds by the City Council. The vast majority of these projects are successfully managed by staff through project completion meeting initial budget

appropriation amounts. Staff also pursues funds from outside sources whenever possible to either wholly fund or partially offset City project expenses. The complete list of capital projects is provided with status updates as Enclosure B.

Staff maintains the list of these capital projects and periodically requests City Council approval for projects that are ready to be closed. Upon completion of right-of-way acquisition, construction and other related activities, some capital projects have remaining budget appropriations. Historically, projects with over-expended balances are offset against projects with under-expended balances within the same fund, and all are closed simultaneously. The close outs enable any remaining project appropriations to be returned to their respective funds for programming in future capital plans. The close out of these projects also addresses staff's and City Council's interest of having unused funding from street projects returned to a contingency account to be available to fund future cost increases. Following this concept, staff recommends that unused Gas Tax and TIF funds be appropriated to PWC 8101 "CIP Contingencies" with an exception for a specific TIF project. This account would then be available to cover future budget shortages for street projects.

Some projects have balances remaining which may be appropriate to transfer to similar types of projects. Staff recommends returning remaining funds from PWC 8378 "Fremont- South of Cushing, Street Improvements" upon close out to PWC 8661, established as the new "Fremont Blvd. Improvement, South of Cushing" project in the FY 2007/08 – 2011/12 CIP. Staff also recommends transferring \$115,000 funds from PWC 8603 "Dumbarton Rail Project" to PWC 8147 "BART Warm Springs Extension." Both projects in this instance will remain open and sufficient funds exist from other fund sources for PWC 8603 to be completed. Both projects fund staff's participation in critical regional transportation projects.

Other projects are not quite ready for closeout, but have large fund balances that can be defunded. PWC 8078 "Dixon Landing Road Interchange" is complete except for final right of way mapping and property exchange issues. Because of a favorable project bid and a low change order percentage, there is approximately \$780,000 of unused Redevelopment funds (951) available for defunding. Similarly, PWC 8236 "Stevenson – I-880 to Blacow" is complete and in the final months of warranty, and has \$600,000 available for defunding.

ENCLOSURES:

- Enclosure A: CIP Project Binder with Staff Recommendations for Project Prioritization
- Enclosure B: PWC Status Report
- Enclosure C: PWC Closeout List

RECOMMENDATIONS:

1. Provide comment on staff prioritization lists.
2. Approve the close out of the capital projects identified on Enclosure C and, for all funds except funds 131, 142 and 531, return the remaining project appropriations to their respective funds. For Gas Tax funds 131, 142 and TIF fund 531, appropriate the remaining balance to PWC 8101 "CIP Contingency."
3. Approve the transfer of the remaining funds in 508PWC8603 to 508PWC8147.
4. Approve the transfer of the remaining funds in 531PWC8378 to 531PWC8661, and then close PWC8378

5. Defund approximately \$780,000 from PWC 8078 to Fund 951 and return the money to unallocated fund balance.
6. Defund \$600,000 from PWC 8236 to Fund 531 and return the money to unallocated fund balance.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to Outside Commissions, Committees, or Boards

ENCLOSURES:

- Draft Resolution
- Mayor and City Councilmember Assignments (2009-2011)

RECOMMENDATION: Adopt a resolution designating Council assignments to outside committees, commissions, and boards. This resolution modifies and replaces the resolution adopted by the Council on February 13, 2007.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE.....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD.....	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA.....	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD.....	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD.....	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG.....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT.....	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW.....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS.....	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
February 2, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
February 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 17, 2009	6:00 p.m.	Work Session	Council Chambers	Live
February 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 17, 2009	TBD	Work Session	Council Chambers	Live
March 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 31, 2009 (5 th Tuesday)		No Meeting		
April 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 21, 2009	TBD	Work Session	Council Chambers	Live
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live